

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Verizon Telephone Companies)	
)	WC Docket No. 02-237
Section 63.71 Application to Discontinue)	
Expanded Interconnection Through)	
Physical Collocation Services)	

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. ("SBC") submits these Reply Comments pursuant to the Public Notice (DA 02-2038) released in this proceeding on August 19, 2002. SBC agrees with Verizon that the current dual regulatory regime for physical collocation creates opportunities for arbitrage and tariff shopping, and SBC supports Verizon's application as a means to foreclose such opportunities.

Verizon is clear that the fundamental purpose underlying its application is the prevention of regulatory "arbitrage."¹ None of the comments presents any serious challenge to the legitimacy of Verizon's concerns. There is no dispute among any of the commenters that there are differences at the state and federal jurisdictions in the regulatory treatment of rates, terms, and conditions for physical collocation, and that these "[d]ifferences in regulatory activity in the state and federal jurisdictions have created inconsistencies between the state and federal tariffs for physical collocation."² Verizon is absolutely correct, moreover, that these differences have, in fact, encouraged carriers to tariff shop and to purchase physical collocation from the jurisdiction

¹ *Verizon Application* at 2.

² *Verizon Application* at 3.

with the most favorable rates, terms, and conditions, rather than the purpose for which the collocation space will be used. SBC thus supports Verizon's application as a legitimate effort to foreclose such arbitrage and tariff-shopping opportunities.

The commenters by and large ignore Verizon's concerns about regulatory arbitrage. WorldCom even disparages these concerns as "unsubstantiated" and "nonsensical."³ SBC, however, has seen firsthand such efforts by carriers to tariff shop for the most favorable rates, terms, and conditions for physical collocation. In one such instance, a carrier originally ordered physical collocation from SBC out of an interconnection agreement that incorporated the rates set forth in SBC's federal expanded interconnection tariff. Thereafter, the state revised its intrastate tariffed rates for physical collocation such that the intrastate rates were lower than the rates in SBC's federal expanded interconnection tariff. The carrier then sought to order "augment" to its federal physical collocation arrangement at the intrastate rates, even though its interconnection agreement continued to reflect all the rates in SBC's federal expanded interconnection tariff. In effect, the carrier sought to pick and choose among the most favorable rates, terms, and conditions in the state and federal tariffs—*i.e.*, tariff shop. Thus, notwithstanding WorldCom's rhetorical scoffing, Verizon's concerns about tariff shopping are factually valid, and its application to discontinue federal expanded interconnection physical collocation offering is a legitimate effort to address those concerns.

Finally, there should be no dispute that Verizon has the legal right to discontinue its federal provision of expanded interconnection through physical collocation. Lost among virtually all of the comments is the fact that Verizon has no federal legal obligation to offer expanded interconnection through physical collocation in the first place. Rather, in its *Expanded*

³ *WorldCom Comments* at 1, 8.

Interconnection Order, the Commission allowed companies to choose to offer physical collocation as an alternative to virtual collocation. The fact that Verizon has thus far provided physical collocation in its federal tariffs in no way abrogates its ability to choose whether or not to do so, as allowed by the Commission.

Moreover, by allowing carriers the alternative of providing physical collocation, the Commission specifically contemplated that those carriers could later withdraw such offerings. Indeed, the Commission specifically mentions the possibility that a carrier, after initially offering a physical collocation alternative, might subsequently “withdraw[] its physical collocation offering for new customers.”⁴ The only restriction addressed by the Commission on the ability of a carrier to withdraw its physical collocation offering pertains to “existing collocation nodes,” which the Commission said would require “certification that such discontinuance of service will not adversely affect the present or future public convenience and necessity.”⁵

Verizon’s application is thus fully consistent with the Commission’s *Expanded Interconnection Order*. Verizon is not requesting permission to withdraw existing federal physical collocation arrangements. Verizon has assured carriers that they “will be able to continue to use their existing physical collocation arrangements.”⁶ There is, therefore, no issue concerning the “public convenience and necessity” with respect to Verizon’s existing federal physical collocation arrangements.

Moreover, Verizon will continue to fully satisfy the full measure of its legal obligations as to new collocation arrangements through the provision of “physical or virtual collocation

⁴ *Expanded Interconnection Order*, ¶ 32

⁵ *Id.*

under the applicable federal and state tariffs as required by section 251(c)(6) and the Commission's expanded interconnection rules,"⁷ which is precisely what the Commission requires. As Verizon notes, the fact that the Commission only requires carriers to provide virtual collocation and allows carriers to choose to offer physical collocation as an alternative to virtual collocation, *ipso facto*, demonstrates that virtual collocation is a reasonable substitute for physical collocation. The continued provision of physical collocation pursuant to state tariffs and interconnection agreements provides another such reasonable substitute.

In combination, the continued offering of physical collocation pursuant to federal expanded interconnection tariffs and the continued offering of physical collocation pursuant to state tariffs and interconnection agreements fully satisfies Verizon's legal obligation to offer collocation. Therefore, if a public convenience and necessity test is required for Verizon to withdraw physical collocation for future expanded interconnection service offerings, Verizon demonstrates that its application is fully consistent with the public convenience and necessity, and the Commission should grant's Verizon's application.

Respectfully submitted,

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⁶ *Verizon Application* at 8.

⁷ *Verizon Application* at 8.